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09/694,653	10/23/2000	John Overman	5384/55100	3830

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EXAMINER

FOX, CHARLES A

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/694,653	Applicant(s) OVERMAN ET AL.	
	Examiner Charles A. Fox	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,16,19-39 and 51-71 is/are pending in the application.
- 4a) Of the above claim(s) 15,19-23,25-28 and 37-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,16,29-31,33,35,36,51-59,65,67 and 69-71 is/are rejected.
- 7) ☒ Claim(s) 24,32,34,60-63,66 and 68 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,4,5,29-31,33,35,51 and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Lazzarotti. Regarding claim 1 Lazzarotti US 5,803,704 discloses a flats mail autotraying device comprising:

a stack accumulator (10) having a means for combining multiple small stacks of mail into a single larger stack while maintaining a sequence order of the mail pieces;

said stack accumulator also having means (14) for transferring said stack to a mail tray.

Regarding claim 2 Lazzarotti also discloses means for releasably engaging the tray.

Regarding claim 4 Lazzarotti further discloses the means for combining further incorporated a fork lift assembly (50).

In regards to claim 5 Lazzarotti also discloses that the forklift assembly is selectively raised and lowered and is selectively in contact with said large stack during a forklift cycle.

Regarding claims 29,30,33 and 51 Lazzarotti also discloses the stack accumulator as further comprising plurality of guides including a side guide assembly and a rear guide assembly.

Regarding claim 31 Lazzarotti also disclose that the guides are retractable.

Regarding claim 35 Lazzarotti also discloses assembly (14) which acts as a gate between the stack of mail and the tray.

Regarding claim 53 Lazzarotti discloses using a sensor (54) for initiating the forklift cycle.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6,16 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lazzarotti as applied to claims 1 and 53 above, and further in view of Jenkins et al. Lazzarotti teaches the limitations of claims 1 and 53 as above, he does not teach the transfer means as being a roller conveyor or that the forklift cycle stacks the mail pieces from the bottom. Jenkins et al. US 6,422,806 teaches a stack accumulator comprising:

a fork lift assembly wherein the forks (146) extend under a first article, lifts said article such that a second article may be placed below the first article in said stack;

wherein said forks cycle to stack more items on the lower portion of the stack until a predetermined number of items are in the stack;

after the stack is complete powered roller conveyor (16) moves said stack from said accumulator. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Lazzarotti with a roller conveyor as

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taught by Jenkins et al. in order to move the completed stack away from the accumulator while at the same time bringing in the first new item of a new large stack, thereby increasing the throughput of the device.

Claims 7 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lazzarotti and Jenkins as applied to claims 1 and 6 above, and further in view of Isaacs et al. Lazzarotti and Jenkins teach the limitations of claim 6 as above, they do not teach pushing the stack out of the accumulator. Isaacs et al. US 6,026,967 teaches a mail pieces accumulator where accumulated bundles of mail are pushed by a pusher mechanism (335) such that they are moved in a horizontal direction. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Lazzarotti and Jenkins with a pusher as taught by Isaacs et al. in order to move the stack while supporting the entire stack from a side thereby stabilizing the stack during movement thereof.

Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lazzarotti as applied to claim 2 above, and further in view of Hendrickson et al. Lazzarotti teaches the limitation of claim 2 as above, he does not teach a means for holding the mail tray. Hendrickson US 6,241,099 teaches a device for loading mail trays comprising:

- a platform for supporting a mail tray;

- a latching gear for holding said tray on said platform. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by

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Lazzarotti with a latching mechanism as taught by Hendrickson et al. in order to hold the tray securely while it is being loaded.

Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lazzarotti and Jenkins as applied to claim 6 above, and further in view of Mandel et al. Lazzarotti and Jenkins teach the limitations of claim 6 as above, they do not teach a pivot arm sensor for determining the stack height. Mandel et al. US 5,609,333 teaches a sheet stack accumulator with a pivot arm (58) attached to a sensor (66) for determining the height of a stack of accumulated paper. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Lazzarotti and Jenkins with a stack height sensor as taught by Mandel et al. in order to further automate the device such that it does not accumulate more items than the device can place in a container.

Claims 56-59,64,65,67 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lazzarotti in view of Jenkins et al. Regarding claims 56 and 59 Lazzarotti teaches a flats mail autotraying device comprising:

a stack accumulator (10) having a means for combining multiple small stacks of mail into a single larger stack while maintaining a sequence order of the mail pieces;

said stack accumulator also having means (14) for transferring said stack to a mail tray.

He does not teach the transfer means as being a roller conveyor or that the forklift cycle stacks the mail pieces from the bottom. Jenkins et al. US 6,422,806 teaches a stack accumulator comprising:

a fork lift assembly wherein the forks (146) extend under a first article, lifts said article such that a second article may be placed below the first article in said stack;

wherein said forks cycle to stack more items on the lower portion of the stack until a predetermined number of items are in the stack;

after the stack is complete powered roller conveyor (16) moves said stack from said accumulator. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Lazzarotti with a roller conveyor as taught by Jenkins et al. in order to move the completed stack away from the accumulator while at the same time bringing in the first new item of a new large stack, thereby increasing the throughput of the device.

Regarding claim 57 Lazzarotti also discloses means for releasably engaging the tray during filling thereof, wherein said tray is released after being filled with mail articles.

Regarding claim 58 Lazzarotti discloses using a sensor (54) for initiating the forklift cycle.

Regarding claims 64,65 and 67 Lazzarotti also teaches the stack accumulator as further comprising plurality of guides including a side guide assembly and a rear guide assembly.

Regarding claim 69 Lazzarotti also teaches assembly (14) which acts as a gate between the stack of mail and the tray.

Claim 70 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lazzarotti and Jenkins as applied to claim 56 above, and further in view of Isaacs et al.

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Lazzarotti and Jenkins teach the limitations of claim 56 as above, they do not teach pushing the stack out of the accumulator. Isaacs et al. US 6,026,967 teaches a mail pieces accumulator where accumulated bundles of mail are pushed by a pusher mechanism (335) such that they are moved in a horizontal direction. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Lazzarotti and Jenkins with a pusher as taught by Isaacs et al. in order to move the stack while supporting the entire stack from a side thereby stabilizing the stack during movement thereof.

Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lazzarotti and Jenkins as applied to claim 57 above, and further in view of Hendrickson et al. Lazzarotti teaches the limitation of claim 57 as above, he does not teach a means for holding the mail tray. Hendrickson teaches a device for loading mail trays comprising:

a platform for supporting a mail tray;

a latching gear for holding said tray on said platform and a mail guide. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Lazzarotti with a latching mechanism as taught by Hendrickson et al. in order to hold the tray securely while it is being loaded.

Response to Amendment

The amendments to the claims and drawings have been entered into the record.

Allowable Subject Matter

Claims 24,32,34,60-63,66 and 68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 24 and 60 have limitations dealing with a driven side roller that are not taught or suggested by the closest prior art of Lazzarotti.

Claims 32,34,66 and 68 have limitations where the guide means are a flexible belt, which is not taught or suggested by the closest prior art of Lazzarotti.

Response to Arguments

Regarding the restriction requirement, this was made final and as such the applicants only avenue for relief from this restriction is a petition.

Regarding the 102(b) rejections of claims 1,2,4,5,51 and 53 while the claims are read in terms of the specification and drawings, they are examined as written. As such the previous 102(b) rejections are made final.

Regarding the stacking Lazzarotti discloses sequentially loading mail pieces into a larger stack that always stays in the same order, as such the combining of stacks and the sequence order is present in the reference.

Regarding the engagement of the tray Lazzarotti does teach an engagement assembly (62) for raising and lowering the tray during loading, otherwise they would not be able to raise and lower the tray without engaging the tray.

The platform 16 corresponds to the forks in the instant invention and is designed to be moved through spaced apart portions of a wall in order to allow a mail stack to be removed from the platform.

Regarding the use of guides compartment (12) of the Lazzarotti references teaches guides for the stack that encompass four sides of the mail stack.

The sensor of Lazzarotti further controls the vertical movement of the platform (16) as the mail stack is created, and as such meets the limitations of the claims as written.

Regarding the combination of Jenkins and Lazzarotti the use of a powered roller conveyor is well known to move stacks as taught by Jenkins, and one of ordinary skill in the art would have conceived of powering the rollers in the Lazzarotti reference in order to move the completed stack.

Regarding the combination of Lazzarotti, Jenkins and Issacs in the rejection of claim 7, Lazzarotti teaches pushing the stack horizontally, Issacs is used as a positive recitation of a pusher that one of ordinary skill in the art would have contemplated using based on the Issacs reference.

Regarding Hendrickson et al. not disclosing a tray latch, the latching gear meets the limitations found in claim 52.

Regarding claim 55 Mandell et al. teaches a stack height sensor that is equivalent to the one as claimed in the instant invention in form as well as function.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached between 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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 5/15/06
DEAN J. KRAMER
PRIMARY EXAMINER